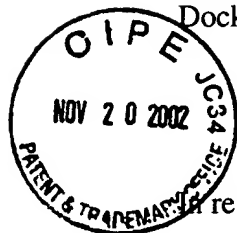


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11-26-02

Application No.: 09/928,474

PATENT/OFFICIAL

Docket No.: 006301 USA/Consilium/Consilium



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re Application of

Badri N. KRISHNAMURTHY et al.

Serial No. 09/928,474

Group Art Unit: 2812

Filed: August 14, 2001

Examiner: Andre' C. Stevenson

For: EXPERIMENT MANAGEMENT SYSTEM, METHOD AND MEDIUM

**RESPONSE TO RESTRICTION REQUIREMENT**

Honorable Commissioner for Patents  
Washington, D.C. 20231

Sir:

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This communication is in response to the Office Action mailed October 1, 2002, having a one-month shortened statutory period of response set to expire by November 1, 2002. A Petition for Extension of Time, together with the requisite fee for same, is submitted herewith, thereby extending the period of response to December 1, 2002. The following remarks are respectfully submitted.

**PROVISIONAL ELECTION**

Applicant hereby provisionally elects Group I (claims 1-8 and 25) for prosecution, with traverse.

**TRAVERSE**

The restriction requirement is respectfully traversed, for the following reasons: (1) the

restriction is improper since reasonable examples of material differences were not provided; (2) there appears to be no serious burden on the Examiner necessitating the restriction requirement; and (3) the application, as amended, includes a linking claim, thereby rendering the restriction improper.

Regarding (1) above, the Examiner cited MPEP § 806.05(e), which states that inventions are distinct if it “can be shown: (A) the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another and materially different process.” The Examiner then appeared to indicate that the latter of these two (i.e., “(B)”) was applicable to the present application. However, it was not made clear by the Examiner why this would be the case. In particular, no examples were provided by the Examiner, in contravention of the examples of material differences required by MPEP § 806.05(e). Specifically, § 806.05(e) states that “the burden is on the examiner to provide reasonable examples that recite material differences.” *Id.* Consequently, should the Examiner maintain the restriction, Applicant respectfully submits that such examples be provided.

Regarding (2) above, the Restriction Requirement cited class/subclass combinations to search:

- Group I: 380/277 (Cryptography key management)\*
- Group II: 700/1 (control systems)
- Group III: 206/710 (special receptacle or package for a semi-conductor wafer)

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\* It is not apparent why class/subclass 380/277, directed to cryptography key management, is relevant to the claimed invention. The Examiner is respectfully requested to clarify.

It is believed that the search for Group II is not well taken as a material difference, since all of the three restriction groups relate to control systems. Hence, it is respectfully submitted that class/subclass 700/1 should be searched for all three restriction groups. Consequently, there appears to be no serious burden on the Examiner necessitating the restriction requirement, as would be required as indicated in the introductory paragraphs of MPEP § 803.

Lastly, regarding (3) above, Applicant submits herewith a Preliminary Amendment, including a linking claim (new claim 28) of the type indicated by MPEP § 806.05(e).

For the reasons given above, the Examiner is respectfully requested to reconsider and withdraw the restriction requirement.

#### **AUTHORIZATION**

No fee is believed to be required. However, the Commissioner is hereby authorized to charge any additional fees should any be required for this submission, or credit any overpayment to deposit account no. 08-0219.

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby

Application No.: 09/928,474

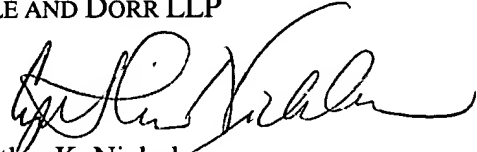
Docket No.: 006301 USA/Consilium/Consilium

  
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authorized to charge any fee for such an Extension of Time or credit any overpayment for an  
Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

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Date: Nov. 20, 2002